HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.19168 of 2003

Between:

Manthena Venkata Radha Krishnam Raju

…Petitioners

AND

The Secretary,
Revenue Department,
Government of Andhra Pradesh,
Secretariat,
Andhra Pradesh and others

… Respondents

ORDER

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Counsel for petitioners : Shri D.R.Varma for
Shri C.S.N.Raju

Counsel for respondent Nos.1, 3 and 4 : Government Pleader for
Revenue

Counsel for respondent No.2 : Shri A.Rajasekhar Reddy
Assistant Solicitor General.

Dated: 10-10-2006

Feeling aggrieved by the non-acceptance of his claim for being treated as freedom fighter for the purpose of grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme'), the petitioner has preferred this petition under Article 226 of the Constitution of India.

In the affidavit filed by him, the petitioner has averred that he had participated in Civil Disobedience Movement in 1942; that he was remanded to custody for nine days and that he remained underground in connection with the Freedom Movement. He has relied on the entry contained at page 350 of Volume I of 'Who's Who of Freedom Struggle in Andhra Pradesh' published by the Government of Andhra Pradesh and averred that inclusion of his name in the government publication is by itself sufficient to treat him as freedom fighter for the purpose of the 1980 Scheme. He has also relied on the invitation sent to him by the Government of India to attend the Golden Jubilee celebrations of the Quit India Movement and has averred that even though he had produced evidence to substantiate his claim for being treated as freedom fighter, District Collector, Guntur (respondent No.3) arbitrarily recommended rejection of the same. He has prayed for letter No.D.Dis. No.1509/93-2002, dated 21-4-2001 sent by respondent No.3 to the Government of Andhra Pradesh be quashed and a mandamus be issued to the respondents to sanction pension in his favour.

In the counter-affidavit filed by Sri V. Veeresham, Deputy Secretary to Government, Revenue Department, it has been averred that further enquiry made by the State Government pursuant to the direction given by the High Court in Writ Petition No.12747 of 2001 and Contempt Case No.214 of 2003 has not resulted in the change of

recommendation made earlier.

I have heard learned counsel for the parties and perused the record.

It is borne out from the record that application filed by the petitioner in the year 1998 was kept pending by the State Government for almost three years necessitating institution of
Writ Petition No.12747 of 2001, which was disposed of by the learned Single Judge on 27-06-2001 with a direction to the respondents to decide his claim within ten weeks. It is also borne out from the record that even before filing of writ petition by the petitioner, respondent No.3 got an enquiry conducted through Assistant Collector, Tenali, into the petitioner's claim that he was a freedom fighter and sent communication dated 21-4-2001 to the State Government with the recommendation that the application made by the petitioner for grant of freedom fighters pension be rejected because he could not produce any tangible evidence to prove his underground suffering. After the decision of Writ Petition No.12747 of 2001, respondent No.3 got fresh enquiry conducted in the matter and submitted report dated 10-3-2003 to the State Government reiterating his earlier recommendation.

In the meanwhile, the petitioner instituted Contempt Case No.214 of 2003, which was disposed of by the learned Single Judge on 25-4-2003 by taking cognizance of the fact that the State Government has already forwarded its recommendations to the Government of India vide letter dated 11-3-2003.

At this stage, it is apposite to mention that on 12-09-2006, the Court had, after taking note of the fact that the committee constituted by the State Government vide G.O.Rt.No.1680, Revenue (FF.I) Department, dated 02-08-2006 was examining the claim of freedom fighters, directed that the petitioner shall be free to appear before the

committee either in person or through an Advocate and his case shall be re-considered and decided on merits irrespective of the earlier rejection. In furtherance of the aforementioned order, Shri D.R.Varma, Advocate representing the petitioner appeared before the committee on 21-09-2006. After hearing him, the committee rejected the petitioner's claim by observing that publication of his name in the book titled 'Who's Who of Freedom Struggle in Andhra Pradesh' cannot be considered as primary evidence for treating him as freedom fighter for the purpose of the 1980 Scheme. The decision of the committee is incorporated in letter No.24407/FF1/A1/2006 dated 25-09-2006 sent by Principal Secretary to Government of Andhra Pradesh, Revenue Department, to the Deputy Secretary to Government of India, Ministry of Home Affairs (FF Division), a copy of which has been produced by the learned Government Pleader.

Shri D.R.Varma, learned counsel for the petitioner made strenuous efforts to persuade the court to reject the negative recommendations made by respondent No.3 and the committee constituted vide G.O.Rt.No.1680, Revenue (FF1) Department, dated 2-8-2006 by arguing that the certificate given by Shri Venkat Raju Kanumuri, who had suffered rigorous imprisonment for one year in connection with freedom movement and the entry recorded in the government publication should be treated as conclusive of his client's entitlement to pension under the 1980 Scheme, but, I have not felt persuaded to agree with him. Rather, I am convinced that the petitioner has failed to make out a case for issue of a direction to the respondents to sanction freedom fighter's pension to him.

Paragraph 2.3 of the 1980 Scheme, which has bearing on the petitioner's claim reads as under:

> : **Underground**:- A person who on account of his participation in freedom struggle remained underground for more than six

months provided he was;

A. A proclaimed offender; or
B. One on whom an award for arrest was announced; or
C. One for whose detention, order was issued but not served.

Explanation: Voluntary underground suffering of self-exile suffering for party work under the command of the party leader, are not covered as eligible sufferings for pension under the Scheme. The claim of underground suffering is considered subject to furnishing of the following evidence:-

1) Documentary evidence by way of Court's / Govt.'s orders proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention OR
2) Where records of the relevant period are not available, a non-availability of records certificate (NARC) from the concerned State/Union territory Administration along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proven jail suffering of a minimum two years and who happened to be from the same administrative unit.

* Gist of relevant Circulars/Instructions issued by the Govt. of India under the Scheme regarding claims based on 'Underground/Abscondence' is given in Appendix-B-II."

A person claiming pension by being treated as freedom fighter, who remained underground for more than six months on account of his participation in the freedom movement has to adduce documentary evidence in the form of court's order declaring him a proclaimed offender or government's order announcing an award on his head or an order for his detention. In the case of non-availability of such evidence, the applicant has to produce a 'Non-availability Of Records' certificate issued by the concerned State along with personal knowledge certificate from a prominent freedom fighter who has

proven jail suffering of a minimum of two years and who happened to be from the same administrative unit. In the present case, the petitioner has neither pleaded nor he has produced any evidence before the Court to show that he had

been declared a proclaimed offender or the competent

authority had issued an award for his arrest or that an order of his detention had been issued. He merely relied on the entry recorded in the government publication 'Who's is Who of Freedom Struggle in Andhra Pradesh' Volume I and the certificate issued by Venkata Raju Kunumuri. The said certificate does not satisfy the requirement of paragraph 2.3 of the 1980 Scheme because the author of the certificate is not shown to have suffered jail for two years and belonged to the same administrative unit. It is, thus, evident that the petitioner has failed to produce evidence necessary for establishing his claim to be treated as freedom fighter for the purpose of the 1980 Scheme. Therefore, refusal of the respondents to entertain his claim cannot be castigated as arbitrary or violative of Article 14 of the Constitution.

In the result, the writ petition is dismissed.

G.S.SINGHVI, CJ

10-10-2006

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